

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF WEST VIRGINIA
BECKLEY

FILED

JUL 20 2009

TERESA L. DEPPNER, CLERK
U.S. District Court
Southern District of West Virginia

UNITED STATES OF AMERICA

v.

CRIMINAL NO. Criminal No. 5:09-00065
18 U.S.C. § 371

RICKY NICHOLS

I N F O R M A T I O N

The United States Attorney Charges:

(Conspiracy to Damage Railroad Property In Violation of
W. Va. Code §61-3-28(b)(4))

Background

1. At all relevant times, the Norfolk Southern Railroad Company was a railroad carrier engaged in interstate and foreign commerce.

2. On or about August 28, 2005, a train derailed on a railroad track west of Baileysville, Wyoming County, West Virginia (the "Derailment Site"). At all relevant times, the Derailment Site was within and upon the territorial jurisdiction of the United States, that is, lands reserved or acquired for the use of the United States and under the concurrent jurisdiction thereof, in fact, the lands were property acquired by the United States Army Corps of Engineers known as R.D. Bailey Lake.

The Conspiracy

3. On or about August 28, 2005, at or near Baileysville, Wyoming County, West Virginia, and within the Southern District of West Virginia, defendant RICKY NICHOLS and other individuals known

and unknown to the United States Attorney, did knowingly conspire to commit an offense against the United States, that is, a violation of 18 U.S.C. § 13, in that the conspirators, without consent of the Norfolk Southern Railroad Company, removed an appurtenance from, damage, and otherwise impaired the operation of a railroad signal system, on a railroad owned, leased, and operated by Norfolk Southern Railroad Company, in violation of W. Va. Code §61-3-28(b)(4).

The Object Of The Conspiracy

4. It was an object of the conspiracy for defendant RICKY NICHOLS, and other individuals known and unknown to the United States Attorney, to enrich themselves by stealing copper wire owned by Norfolk Southern Railroad Company that was used as part of its signaling and dispatching system.

The Manner And Means Of The Conspiracy

5. It was a part of the conspiracy that defendant RICKY NICHOLS and other individuals known and unknown to the United States Attorney would and did:

- a. Plan to steal copper wire belonging to Norfolk Southern Railroad Company for pecuniary gain;
- b. Travel to the Derailment Site;
- c. Place two metal "I-Beams" across the railroad track at the Derailment Site for the purpose of avoiding detection by stopping and interfering with any vehicle traveling on the track towards their location;
- d. Remove copper wire belonging to Norfolk Southern Railroad Company that is used in the operation of

its railroad signal system and central dispatching system; and

- e. As a result of placing the metal I-Beams across the railroad track at the Derailment Site, they caused a train, which was carrying two passengers and freight, to derail when it struck the I-Beams.

Overt Acts In Furtherance Of The Conspiracy

6. In furtherance of the conspiracy and to effect the object of the conspiracy, on or about August 28, 2005, defendant RICKY NICHOLS, met with his co-conspirators at his residence, situated in Lilleydale, Wyoming County, West Virginia, and did plan to steal copper wire later that same night from along railroad tracks owned by Norfolk Southern Railroad Company, which are situated on property acquired by the United States Army Corps of Engineers known as R.D. Bailey Lake.

7. In furtherance of the conspiracy and to effect the object of the conspiracy, on or about August 28, 2005, defendant RICKY NICHOLS, in concert with his co-conspirators, traveled to the Derailment Site for the purpose of removing appurtenances from, damaging, and otherwise impairing the operation of a railroad signal system, that is, to steal copper wire used to provide electricity to signals used by Norfolk Southern Railroad Company.

In violation of Title 18, United States Code, Section 371.

UNITED STATES OF AMERICA

CHARLES T. MILLER
United States Attorney

By:

THOMAS C. RYAN
Assistant United States Attorney